

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

DSM IP ASSETS, B.V. & DSM BIO-BASED  
PRODUCTS & SERVICES, B.V.,

Plaintiffs and Counter-Defendants

ORDER

v.

16-cv-497-wmc

LALLEMAND SPECIALTIES, INC. &  
MASCOMA LLC,

Defendants and Counterclaimants.

---

On the parties' deposition designations, counter-designations and objections as to Erin Wiswall, the court rules as follows:

Lallemand's Designations	DSM's Objections	Court Ruling	DSM's Counter-Designations	Lallemand's Objections to DSM's Counter-Designations	Lallemand's Counter Designations	Court Ruling
6:20-8:11		Strike: 6:20 through 7:12 except for "Before you"	8:22-9:13	[9:5, 9:12] <i>Attorney Objection</i>		Sustained.
22:2-22:4	MIL #3; FRE 403, 702	Overruled.				
22:7-22:9	MIL #3; FRE 403, 702	Overruled.				
22:12-22:19	MIL #3; FRE 403, 702	Overruled.				
24:2-24:5	MIL #3; FRE 403, 702	Overruled.				
24:9-24:13	MIL #3; FRE 403, 702	Sustained.				
25:3-26:2	MIL #3; FRE 403, 702	Overruled.				
26:7-26:14	MIL #3; FRE 403, 702	Reserved.				
39:15-39:21	MIL #3; FRE 403, 702	Overruled.	38:19-39:14; 40:16-43:3	[42:17-43:2] <i>Irrelevant</i> (FRE 402); <i>Prejudicial/Confusing/Misleading</i> (FRE 403); <i>Lack of Personal Knowledge</i> (FRE 602); <i>Seeks Improper Expert</i>		Sustained.

				<b><i>Opinion</i></b> (FRE 701/702); <b><i>Includes Attorney Objection</i></b> (FRE 611(a))		
40:3-40:15	MIL #3; FRE 403, 702	Overruled.	39:19-39:14; 40:16-43:2	[42:17-43:2] <b><i>Irrelevant</i></b> (FRE 402); <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403); <b><i>Lack of Personal Knowledge</i></b> (FRE 602); <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702); <b><i>Includes Attorney Objection</i></b> (FRE 611(a))		Sustained.
50:12-50:15	MIL #3; FRE 403, 702	Sustained.	50:16-18			
54:2-54:21	MIL #3; FRE 403, 702	Overruled.				
55:17-56:1	MIL #3; FRE 403, 702	Overruled.				
56:13-57:20	MIL #3; FRE 403, 702	Reserved.				
58:2-59:19	MIL #3; FRE 403, 702	Reserved.				
63:2-63:20	MIL #3; FRE 403, 702	Reserved.	68:8-71:5; 72:9-15;	[69:12-13, 70:18; 71:3] <b><i>Attorney Objection</i></b> (FRE 611(a)) [72:9-15] <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403); <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702); <b><i>Includes Attorney Objections</i></b> (FRE 611(a)) [73:8, 74:2, 74:8-9; 74:18] <b><i>Attorney Objection</i></b> (FRE 611(a)) [78:16-79:9] <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403); <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702)	71:14-49	Sustained.
64:9-65:13	MIL #3; FRE 403, 702	Reserved.	72:17-75:21; 76:4-15;			
67:1-67:8	MIL #3; FRE 403, 702	Reserved.	78:16-79:9			
79:10-79:15	MIL #3; FRE 403, 702	Overruled.				
79:17-79:19	MIL #3; FRE 403, 702	Overruled.				
79:21-80:8	MIL #3; FRE 403, 702	Overruled.				
80:10-80:13	MIL #3; FRE 403, 702	Overruled.				
80:15-80:20	MIL #3; FRE 403, 702	Overruled.	80:21-81:10	[81:3-10] <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702); <b><i>Includes Attorney Objection</i></b> (FRE 611(a))		Sustain: 80:5. Overruled as to remainder.
82:7-82:13	MIL #3; FRE	Overruled.				

	403, 702					
82:15-82:21	MIL #3; FRE 403, 702	Overruled.				
83:1-83:6	MIL #3; FRE 403, 702	Overruled.				
83:8-84:1	MIL #3; FRE 403, 702	Overruled.				
84:4-84:15	MIL #3; FRE 403, 702	Overruled.	86:5-87:1	[86:11-14] <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403); <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702) [86:19-20] <b><i>Attorney Objection</i></b>		Sustained.
94:3-94:3	MIL #3; FRE 403, 602, 702, 802	Overruled.				
94:7-95:5	MIL #3; FRE 403, 602, 702, 802	Overruled.				
95:7-95:8	MIL #3; FRE 403, 602, 702, 802	Overruled.				
95:10-95:14	MIL #3; FRE 403, 602, 702, 802	Overruled.				
97:16-98:6	MIL #3; FRE 403, 602, 702, 802	Sustained.				
98:15-98:21	MIL #3; FRE 403, 602, 702, 802	Overruled.	98:22-101:12	<b><i>Irrelevant</i></b> (FRE 402); <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403); <b><i>Lack of Personal Knowledge</i></b> (FRE 602); <b><i>Seeks Improper Expert Opinion</i></b> (FRE 701/702)		Reserved.
101:13-101:14	MIL #3; FRE 403, 602, 702, 802	Overruled.				
101:18-102:12	MIL #3; FRE 403, 602, 702, 802	Overruled.				
103:17-103:22	MIL #3; FRE 403, 602, 702, 802	Overruled.				
104:12-105:7	MIL #3; FRE 403, 602, 702, 802	Overruled.				
105:9-105:13	MIL #3; FRE 403, 602, 702, 802	Overruled.				
107:4-107:18	MIL #3; FRE 403, 702	Overruled.	106:19-107:3	<b><i>Irrelevant</i></b> (FRE 402); <b><i>Prejudicial/Confusing/Misleading</i></b> (FRE 403)		Overruled.

			109:6-110:4	[109:22-103:4] <b>Irrelevant</b> (FRE 402); <b>Prejudicial/Confusing/ Misleading</b> (FRE 403); <b>Lack of Personal Knowledge</b> (FRE 602); <b>Hypothetical; Seeks Improper Expert Opinion</b> (FRE 701/702 )		Overruled.
112:13- 116:14	MIL #3; FRE 403, 702	Overruled.				
118:14-119:2	MIL #3; FRE 403, 702	Overruled.				
119:7-120:20	MIL #3; FRE 403, 702	Overruled.				
122:2-122:6	MIL #3; FRE 403, 702	Overruled.	122:7-123:4	<b>Lack of Personal Knowledge</b> (FRE 602); <b>Hypothetical; Seeks Improper Expert Opinion</b> (FRE 701/702); <b>Includes Attorney Objection</b> (FRE 611(a))		Sustain: 122:15-16. Overruled as to remainder.
124:17- 126:16	MIL #3; FRE 403, 702	Sustain: 125:22- 126:5. Overruled as to remainder.				
128:3-128:16	MIL #3; FRE 403, 702	Sustain: 128:12. Overruled as to remainder.	127:3-128:1; 128:17- 130:13; 131:21-132:7; 132:18-133:11	[127:3-128:1] <b>Improper Counter- Designation as Beyond the Scope; Lack of Personal Knowledge</b> (FRE 602); <b>Hypothetical; Seeks Improper Expert Opinion</b> (FRE 701/702); <b>Includes Attorney Objections</b> (FRE 611(a)) [128:17-130:13] <b>Improper Counter- Designation as Beyond the Scope; Lack of Personal Knowledge</b> (FRE 602); <b>Hypothetical; Seeks Improper Expert Opinion</b> (FRE 701/702); <b>Includes Attorney Objections</b> (FRE 611(a)) [131:21-132:7] <b>Irrelevant</b> (FRE 402); <b>Prejudicial/Confusing/ Misleading</b> (FRE 403); <b>Seeks Improper Expert Opinion</b> (FRE 701/702)		Sustain: 127:6, 21; 128:20; 130:6, 12; 131:21- 132:7. Overruled as to remainder.

133:12- 135:14	MIL #3; FRE 403, 702	Overruled.				
135:8-135:12	MIL #3; FRE 403, 702	Sustained.				
135:14- 135:17	MIL #3; FRE 403, 702	Sustained.				

Entered this 7th day of May, 2018.

BY THE COURT:

/s/

---

WILLIAM M. CONLEY  
District Judge